

Before the
Federal Communications Commission
Washington, D.C. 20554

In the matter of)	
)	
Fostering Innovation and Investment in the)	GN Docket No. 09-157
Wireless Communications Market)	
)	
A National Broadband Plan For Our Future)	GN Docket No. 09-51

REPLY COMMENTS OF MICHAEL MULCAY

Michael Mulcay offers these Reply Comments in response the Commission's above-captioned proceeding¹. For more than forty years I have been involved in bringing innovative technologies to market as an entrepreneur and as an employee of large corporations².

Although I am currently the Chairman of Wireless Strategies Inc., I am submitting these comments in my name and the expressions are not necessarily those of Wireless Strategies Inc.

These reply comments refer to comments made in reference to paragraph 5 of the NOI.

¹ Fostering Innovation and Investment in the Wireless Communications market, GN Docket Nos. 09-157 and 09-51, Notice of Inquiry ("NOI"), FCC 09-66 (released August 27,2009)

² Founder and CEO of United Development Corporation which developed and manufactured the first broadband Nuclear Magnetic Resonance spectrometer probe; Co-Founder and President of TXR Inc. which developed and manufactured high capacity Digital Electronic Message Service (DEMS) radios in the 10GHz and 18GHz bands; Founder and President of Metropolitan Area Network Corporation, a DEMS provider; Founder and CEO of Microteq Corporation, which developed and manufactured the first long range Ethernet portal operating at distances in excess of 35 miles in the 2.4GHz ISM band using a customized 802.11 protocol; Co-founder and Chairman of Wireless Strategies Inc., whose goal is to dramatically lower the cost of broadband backhaul and access by taking advantage of innovative microwave radio equipment to more effectively use existing licensed frequencies bands; Senior Engineer, Raytheon Company, designing Electronic Counter Counter Measures (ECCM) for the US Air force; Technical Marketing Manager, Raytheon Data Systems RDS 80, the first commercially available all solid state 11GHz digital microwave radio sold to Bell and Independent telephone companies; Product Manager, TRW Vidar, responsible for the development, marketing and sales of the first 2GHz 16QAM digital microwave radio sold to Independent telephone companies; Vice President Worldwide Sales and Marketing, Loral Microwave Corporation; Vice President Business Development, Western Multiplex Corporation, wrote the request for a Rule Making and for an Immediate Waiver of the Rules to allow unlimited EIRP for spread spectrum radios in the 2.4GHz and 5.8GHz ISM bands.

A. Lengthy Regulatory Processes are an Obstacle to Investment and Innovation

I agree with the comments of the Enterprise Wireless Alliance³ and Mitchell Lazarus⁴ that time is a key factor in decisions related to investment and the commercialization of innovations. For investors it is the return on Investment (ROI) over a specified time. For innovators the shorter the time to bring the benefits of the innovations to market, the longer the time to grow sales and gain market share before the competition catches up.

When competing in the market place there are three main competitive elements: Price, Performance and Availability. You can have an innovation that lowers the price by ninety percent (90%) and increases performance by fifty times (x50) but if you cannot deliver because of a regulatory obstacle innovation and investment is severely hindered or stopped. Investors have no time frame to predict their ROI and innovators cannot give potential customers a delivery date.

B. Recommendation for Reducing the Time of Regulatory Processes

When the Commission issues a Public Notice of a Proposed Rule Making or a Request for a Declaratory Ruling etc. the notice gives a Comment Date and a Reply Date. However no date is given for a ruling or order; it is open ended it could be months or years or never. Clearly the practice of not giving a date for a ruling or an order is a barrier to investment in innovative technologies and very damaging to innovators.

The solution is to require a date by which a ruling or order must be made⁵. How long should this period be? It should certainly not take several years as is now the case⁶. A review of past

³ See the comments of the Enterprise Wireless Alliance filed in this proceeding on September 30, 2009, Item D.

⁴ See the comments of Mitchell Lazarus filed in this proceeding on September 30, 2009, Item B.

⁵ Provision could be made for an extension by setting a new date with the reasons for the extension. For example if the subject was sufficiently complicated the Commission could extend the ruling date to allow time to invite the commenting parties to attend a joint meeting where the Commission would ask for clarifications and the commenting parties could debate the factual merits of the proposals and comments.

proceedings suggest that in most cases a few months should be adequate. Obviously the Commission staff can be expected to be working on several petitions at the same time and working on other activities such as writing Notices of Inquiry; however this should not be an excuse for justifying long delays. As noted by former Commissioner Adelstein: “Technology in the wireless space moves too fast to be delayed by an unnecessarily long deliberation at the FCC”⁷. Therefore, if the Commission needs more staff to reduce the time for a ruling from years to months I believe that investing in more staff would be very worthwhile.

C. Conclusion

For America to continue to lead the world in wireless innovation it is essential that the Commission removes all time uncertainties, by doing so it will facilitate investment and the introduction of innovative service and product offerings.

Respectfully submitted,

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⁶ See the table and both paragraphs on page 5 of the comments filed in this proceeding by Mitchell Lazarus on September 30, 2009.

⁷ Report and Order WT Docket No. 07-54, page 45, Statement of Commissioner Jonathan S. Adelstein.

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